

Indiana Department of Education

Division of Special Education

**COMPLAINT INVESTIGATION SUMMARY**

COMPLAINT NUMBER:	1844.01
COMPLAINT INVESTIGATOR:	Sandie Scudder
DATE OF COMPLAINT:	December 11, 2001
DATE OF REPORT:	January 10, 2002
REQUEST FOR RECONSIDERATION:	yes/revised February 8, 2002
DATE OF CLOSURE:	February 8, 2002

**COMPLAINT ISSUES:**

Whether the MSD of Wayne Township and West Central Joint Services violated:

- 511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:
  - a. failing to provide identified accommodations and modifications;
  - b. failing to implement the behavioral intervention plan (BIP);
  - c. failing to ensure the student's teacher of record met with the student on a weekly basis for the amount of time indicated; and
  - d. failing to provide the student with opportunities, during weekly consultation with the teacher of record, to develop a plan for managing stimuli or situational stressors.

**FINDINGS OF FACT:**

1. The Student is 17 years old, is in 12<sup>th</sup> grade, and is eligible for special education and related services as a student with an emotional disability.
2. The Complainant alleges that the School has failed to implement the Student's BIP. The BIP dated June 14, 2001, was modified on November 16, 2001, to include a statement requiring the School to involve the Complainant in all decisions regarding consequences for the Student's inappropriate behavior. Both BIPs specified procedural steps to be followed in the event there was a behavioral incident with the Student, and addressed the same target behavior: "When [Student] is corrected by staff, he may become disrespectful and non-compliant in an effort to control the situation." Under Reactive Strategies, the BIP states: "Continuation of the disruptive behavior will result in the teacher's request for [Student] to use his 'personal' hall pass to the ED classroom." When this occurs, the teacher must complete a Procedural Steps form and submit it to the TOR before the end of the school day.
3. There are several modifications/accommodations listed in the IEP dated June 14, 2001, including: "Directions need to be repeated" and "Make sure [Student] understands given assignment." During a confrontation, the Procedural Steps form provides for the Student to "be redirected to the classroom activity" two times before being sent to the ED classroom. The Complainant states during a confrontation on October 30, 2001, the classroom teacher dwelt more on the Student's inappropriate language rather than implementing the required accommodations in response to the Student's assertion that he didn't know what to do. In a memo dated October 30, 2001, the classroom teacher stated that the Student was asked to start his assignment. The Student responded with profanity stating he didn't know what to do. The teacher took the Student aside and

inquired as to the problem the Student was having. After the classroom teacher asked him not to use profanity, the Student continued with inappropriate language. The teacher sent the Student to the ED classroom. There was no further opportunity for the classroom teacher to implement the accommodations subsequent to the incident.

4. On September 14, 2001, the Student was asked to go to the ED classroom because of disruptive behavior in study hall, but the teacher failed to complete and submit the Procedural Steps form to the TOR before the end of the school day. The TOR reminded the teacher that a Procedural Steps form must be completed. The teacher did not give the completed form to the TOR until September 17, 2001. The teacher used a single Procedural Steps form to document the September 14, 2001, incident, and an incident occurring on September 17, 2001.
5. The Complainant states that on October 30, 2001, the Student was involved in a confrontation with a teacher who did not follow the final procedural step included in the BIP. During the confrontation, the Student was asked by the teacher to go to the dean's office rather than the ED classroom. The TOR informed the classroom teacher that the Student, according to the BIP, was to be sent to the ED classroom.
6. On December 5, 2001, the classroom teacher submitted a completed Student Referral form to the dean describing the student's behavior during class. The behavior involved the Student passing a card containing inappropriate and offensive language to other students during a speaker's presentation. The speaker retrieved the card without interruption in the presentation. There was no disruption to the classroom situation, and the speaker discussed the situation with the student's teacher after the presentation concluded. The dean stated that after a brief discussion with the principal, a meeting was scheduled with the Complainant and the Student. The Complainant contends that the BIP dated November 16, 2001, was not implemented because the Student Referral form and the Out-of-School Suspension form were completed prior to the beginning of the meeting and ensuing discussion. The dean stated that the Out-of-School Suspension form was completed at the close of the meeting, and the behavior exhibited by the Student would automatically be an out-of-school suspension according to school policy. The Student's IEP/BIP do not preclude suspension as a consequence for behavior.
7. The BIPs dated June 14, 2001, and November 27, 2001, require the Student to meet one time weekly for 15 to 30 minutes with the TOR to discuss proactive strategies. The Complainant alleges that the meetings are shorter than the time required, and proactive strategies are not discussed. A log was submitted by the TOR documenting consultations with the Student, but does not state how long the consultations lasted. The log was not intended to be a verbatim account of the consultations, but designed to document compliance with the BIP. The TOR said the consultations varied in length, and that she consistently tried to involve the Student in discussions about proactive strategies. The director stated "... if [Student] does not wish to engage in a dialogue or discussion, there is little to be gained by requiring him to sit in [TOR's] office for a specified period of time."
8. As part of the BIP's proactive strategies, the TOR is to provide the Student, during their weekly meetings, with the opportunity to develop a plan for managing stimuli or situational stressors. The TOR's log indicates that she met with the Student on a weekly basis (with limited exceptions for ISTEP testing and the Student's absences). The log notes indicate that, at the majority of the meetings, the Student reported no problems. However, the log also contains notations that the TOR discussed periodic problems the Student experienced and the Student's response to the problem. The Student had the opportunity to develop a plan for dealing with stressors during these discussions.

**CONCLUSIONS:**

1. a. Finding of Fact #3 reflects that the Student's June 14, 2001, IEP included accommodations requiring the Student's teachers to repeat directions and make sure the Student understands a given assignment. On October 30, 2001, the Student became disruptive when asked to start an assignment. Although the teacher attempted to find out what the Student didn't understand about the assignment, the Student's continued disruptive behavior resulted in the Student being sent to the ED classroom in accordance with the Student's behavioral intervention plan. Therefore, no violation of 511 IAC 7-27-7(a) is found with respect to implementation of accommodations.
- b. Finding of Fact #4 indicates that after an incident on September 14, the teacher failed to complete a Procedural Steps Form as required by the Student's BIP. Finding of Fact #5 indicates that after an incident on October 30, 2001, the teacher sent the Student to the dean's office, contrary to the requirements of the Student's BIP. Finding of Fact #6 establishes that the teacher complied with the BIP following the incident December 5, 2001. Therefore, a violation of 511 IAC 7-27-7(a) is found with respect to the failure to implement the BIP on September 14, and October 30, 2001.
- c. Finding of Fact #7 reflects that the Student met weekly with the TOR to discuss proactive strategies; however, the length of the conversations varied, depending on the Student's willingness to participate. Therefore, no violation of 511 IAC 7-27-7(a) is found.
- d. Finding of Fact #8 indicates that the TOR met with the Student on a weekly basis and discussed how things were going for the Student. When the Student identified a problem, the meeting provided the Student with the opportunity for the Student to develop a plan for managing stimuli or situational stressors. Therefore, no violation of 511 IAC 7-27-7(a) is found.

**The Department of Education, Division of Special Education requires corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The MSD of Wayne Township and West Central Joint Services shall:

Send a written reminder to the Student's teachers regarding the details of the Student's BIP and each teacher's responsibilities in implementing the BIP. **A copy of the memorandum and a list of individuals to whom it was sent shall be submitted to the Division no later than February 6, 2002.**